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Jul 02, 2019

STATE OF VERMONT  
JUDICIAL CONDUCT BOARD

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In Re:  
Hon. Gregory J. Glennon

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JCB Docket No. 18.024

SETTLEMENT STIPULATION

Now comes Bonnie J. Badgewick, Esq., special counsel to the Judicial Conduct Board and the Honorable Gregory J. Glennon, by and through his attorney Steven A. Adler of Adler & McCabe, P.L.C, and do by stipulate and agree as follows:

As a result of an anonymous complaint, the JCB through special counsel Bonnie J. Badgewick investigated an allegation that Judge Glennon violated Canon 2 which states that "a Judge shall avoid impropriety and the appearance of impropriety in all the judge's activities." The parties agree that the Board has jurisdiction over Judge Glennon who is serving as the probate judge in Chittenden County Vermont.

After initially being appointed as Chittenden County Probate Judge in 2016 by Governor Peter Shumlin to fill the seat vacated by Judge Susan Fowler who retired, Judge Glennon ran for election in 2018. During the campaign, Judge Glennon directly contacted attorneys, including attorneys who were involved in probate matters in Chittenden County and appeared before him. Judge Glennon asked some of these attorneys if they would be willing to be a part of a campaign committee he was forming around late April or early May of 2018. The parties acknowledge the inherent conflict between permissible behavior under Canon 5C(3)(Reporter's Notes providing that "a Judge may ask individuals to serve on [campaign committees]...the section also does not prohibit a judge from personally asking individuals for their votes" and the Canon 2 prohibition against the appearance of impropriety.

Judge Glennon agrees that his conduct could have placed attorneys appearing before him and whom he contacted in the uncomfortable position of having to agree or decline to support the Judge in his election campaign or to assist his campaign in some capacity. Special Counsel and Respondent agree and acknowledge that this was the first election campaign for Respondent and that he had not sufficiently considered the necessity of strictly avoiding any appearance of impropriety, particularly with regard to pro se litigants. The better course of action, at least under the 1990 version of the Code of Judicial Conduct currently in place in Vermont, would be to avoid any direct contact with attorneys while they have active, contested matters pending in front of Respondent. The parties acknowledge that the 2007 Model ABA Code of Judicial Conduct §§ 4.2-4.4 clarifies this inconsistency to allow direct contact, and relaxes the rules allowing for *ex parte* communications in certain circumstances. See §2.9A(5).

In the course of investigating the anonymous complaint, Special Counsel interviewed members of the Chittenden County Probate Bar. This investigation yielded information that was broader in scope than the original anonymous complaint. Special Counsel was thereafter asked to investigate the possibility of *ex parte* communications by the Judge or court staff (at the judge's direction) and consider whether there may have been violations of Canons 3 (prohibiting *ex parte* communications). A prior investigation into Canon 5 found no probable cause. The confidential investigation into violation of Canon 3 was not completed pending settlement by compromise. The Board did not reach a determination as to any Canon 3 violations.

The parties to this stipulation agree that the public interest would be best served by resolving this manner promptly and in such a way so as to have an acknowledgment by Judge Glennon that his activities did create an appearance of impropriety, despite the fact that he had no motives of personal gain, and that his conduct was negligent and not intentional. The Judge, for his part, wishes to avoid a protracted hearing and does hereby waive the right to contest the Canon 2 violation and further waives the right to appeal the sanction premised on the following agreement and its acceptance by the Judicial Conduct Board:

1. Respondent does stipulate and agree that he shall be publicly reprimanded by the Judicial Conduct Board for violation of Canon 2 - for engaging in activities which had the appearance of impropriety.
2. Any ongoing investigations by the JCB as a result of the original complaint or any other matters uncovered during such investigations or allegations of misconduct or violation of other Canons through the date of this stipulation are resolved subject to the terms of this Stipulation and public reprimand. In the event that the mentoring judge determines that Respondent has participated in good faith with the mentoring agreement detailed herein, the complaint shall be dismissed pursuant to Rule 8(3). Should the Board be advised by the mentoring judge during the mentoring program that the Respondent is not willing or able to successfully complete the program, or if the Board receive a negative final report from the mentoring judge and determines, after summary, hearing, by clear and convincing evidence that the Respondent has failed to participate in good faith with the terms hereof, the Board retains authority pursuant to Rule 8(3) to open and continue its prosecution of Canon 2 violations; and further investigation into Canon 3 allegations as appropriate, and seek any further disciplinary action as authorized by the Rules.
3. Respondent agrees to comply with the terms and conditions of a mentoring program to be developed in consultation with the Chief Superior Judge.
4. The mentoring program shall include regular consultation with a mentoring judge and the development of a remedial plan which shall include some additional training in the areas of ethical, procedural and substantive law as it relates to both the Respondent's role in the judiciary and probate court



matters, and a period of twelve months of oversight by a judge or retired judge with experience in the application of the judicial canons and practical judicial experience. Although the specifics of the mentoring program shall be developed in consultation with the Chief Superior Judge, it is anticipated that for a period of twelve months, the mentor judge shall meet regularly with Respondent to review active files, to provide oversight and guidance in crafting clear orders and to create guidelines for recusal in the future should such be required. Failure to successfully complete said mentoring program as detailed in ¶ 2 hereof may result in prosecution of the Canon 2 violation; and further investigation into the Canon 3 assertions, and all available rights and remedies available to the Respondent and Judicial Conduct Board pursuant to the Rules will remain in effect. Should a new prosecution occur as a result of the failure of the mentoring program, this stipulation shall not be admissible as evidence of guilt.

5. The mentoring judge shall report bimonthly to the chair of the Judicial Conduct Board, with a copy to Respondent, on the Respondent's compliance with the mentoring plan.
6. During the next twelve months, Respondent shall receive additional training in any areas which are identified as deficiencies by the mentoring judge.
7. At least once every 60 days during the twelve month period in which the mentor judge provides oversight, there shall be an in person meeting between the mentor judge and Respondent for a review of Respondent's procedures, docket control measures and cases pending decision.

The parties agree and recognize that there have been no prior ethical misconduct charges against Respondent either in his capacity as a judge or during his fourteen years as a private attorney before being appointed to the bench. The parties further agree that prompt and final resolution of the precipitating anonymous complaint and the other concerns disclosed during special counsel's investigation is in the public interest.

The parties agree that this stipulation shall be treated pursuant to rule 8(3); the fact of this agreement shall be public but the terms thereof shall not be made public.

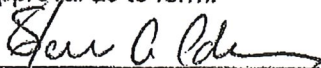
Dated at Woodstock, Vermont on this 2<sup>nd</sup> day of July, 2019.


  
Bonnie J. Badgewick, Special Counsel for  
the Judicial Conduct Board

Dated at Chittenden, Vermont on this 2 day of July, 2019.

  
Honorable Judge Gregory J. Glennon

Approval as to form.

  
Steven A. Adler, Esq.

  
Bonnie J. Badgewick, Special Counsel for  
the Judicial Conduct Board

FILED

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